STATEMENT OF THE

NATIONAL BUSINESS AVIATION ASSOCIATION

ED BOLEN
PRESIDENT AND CEO

BEFORE

THE COMMITTEE ON COMMERCE, SCIENCE & TRANSPORTATION

U.S. SENATE

REGARDING

"FAA REAUTHORIZATION: AIR TRAFFIC CONTROL MODERNIZATION AND REFORM"

MAY 19, 2015

Chairman Thune, Ranking Member Nelson and members of this committee, thank you for inviting me to testify here today. My name is Ed Bolen, and I'm the president and CEO of the National Business Aviation Association.

NBAA and its Members commend you for your continued focus on a priority of national importance–reauthorization of the Federal Aviation Administration.

As we know, the outcome of this debate will have implications for all aviation segments, including the thousands of companies that rely on a general aviation airplane to do business in small communities all over this vast country of ours.

Business aviation is an important engine in our nation's economy and a vital link in our transportation system.

Business aviation fosters economic development in small towns and rural communities. It helps businesses of all sizes to be efficient, productive and competitive—no matter where they happen to be located. And, business aviation assists in our nation's humanitarian efforts. Every day, business aviation transports patients to treatment centers, reunites combat veterans with their families, and flies organs for transplants.

NBAA is proud to represent more than 10,000 American members who rely on the use of general aviation aircraft to meet some portion of their transportation challenges.

Our members are businesses of all sizes, and also hospitals, universities, and other non-profit entities. Eighty-five percent of our members are small and mid-size businesses, most of which are located in secondary and tertiary communities. They use a range of aircraft for business purposes, including pistons, turboprops and business jets. Most of these aircraft begin or end their flights at airports with no scheduled airline service.

I think it's useful to provide four examples of our members, from the four corners of America, to illustrate what business aviation looks like.

Let me first point to Manitoba, a family-owned metals-recycling company located in Lancaster, NY. The company's third-generation CEO, Richard Shine, started using business aviation to help his company survive when the local manufacturers that provided scrap metal to Manitoba disappeared.

Richard put business aviation to use for his company. In a typical day, he would fly out of Niagara Falls Airport to be in two or three cities each day to meet with prospective metal suppliers.

Over the decades, Manitoba's reliance on the airplane hasn't changed. Richard reports that, "Today as much as ever, I rely on my airplane, and my ability to reliably access several airports each week, to get outside my region and generate the metals I need to stay in business. If special interests are allowed to control my access to airspace and airports, I'm in jeopardy of losing the business."

A similar story to Richard's is that of entrepreneur Brad Pierce, the President of Orlando-based Restaurant Equipment World, a family-owned company founded by Brad's father.

Brad has said that his company's airplane has been instrumental in expanding the growth of his business. He uses it week in and week out, flying to visit customers throughout the Southeast, and as far away as California, making stops all along the way.

For this kind of business model to work, it is absolutely essential for Brad to have access to airspace and airports, at a reasonable cost.

"If our aviation system was turned over to special interests that could control how much I pay to access the system, and when and where I was allowed to fly, it would destroy my business," Brad has said. "We cannot let that happen."

A third illustrative example of what business aviation looks like can be found in the story of Dr. Michael Gregory, the chairman and founder of a business called Apogee Physicians, an Arizona-based firm that uses a business airplane to provide doctors to medically underserved communities spanning four time zones. The towns served by Apogee's doctors include Grants Pass, OR; Marion, IL; and Thomasville, GA.

Dr. Gregory often calls his airplane "a lifeline" to the communities where his doctors are located. "But in order to be able to get doctors to patients on a real-time basis, I must have reliable access to airports and airspace," he adds. "If our aviation system were changed so that I couldn't access any town, at any time, I wouldn't be able to quickly get my doctors to those who need their life-saving treatments."

A fourth demonstrative example of business aviation can be found in Schweitzer Engineering Laboratories, an employee-owned business located in Pullman, Washington. The company's founder, Dr. Ed Schweitzer, works with a team of engineers to develop computer systems, power-grid technologies and other leading-edge innovations. The company does business all across the U.S., and in more than 100 countries around the world.

Schweitzer could not compete in a global marketplace without business aviation, because it is often the only way the company's personnel can meet the real-time demands of servicing power grids and other infrastructure.

Manitoba Recycling, Restaurant Equipment World, Apogee Medical Physicians, Schweitzer Engineering, and countless other companies like these are located in small and mid-size towns far away from the major metropolitan areas. In those towns, such companies are vital to job creation and economic activity.

In fact, studies have shown that general aviation contributes to the creation of more than a million jobs in the U.S., and more than $200 billion in economic activity each year.

The reason for this economic success story is largely due to the ability of business aviation to access small community airports. The airlines serve fewer than 500 airports in the U.S., but business aviation can access about 5,000 airports.

Access to airports, and to the nation's airspace, is what creates all those jobs, generates all that economic activity, and helps make America's aviation system work for all Americans.

During the FAA Reauthorization process, it is critical that Congress keep in mind that the airspace above our heads belongs to the American public. It doesn't belong to any private company, or group of companies. It doesn't belong to any segment of the aviation industry, or even the aviation industry itself. The airspace above our heads belongs to the American public, and it should be operated for the public's benefit.

The question on the table—perhaps the fundamental question in this reauthorization debate—is who is going to ensure that our public airspace is operated for the public's benefit?

Will it be the public's elected representatives or will it be some combination of self-interested parties?

In the past, some of the parties pushing Congress for major changes have wanted for themselves the sweeping authority to determine: 1) who gets taxed, and in what amounts; and 2) who will have access to airports and airspace, and who will get shut out.

John Marshall, the first Chief Justice of the Supreme Court, had it right when he famously wrote that the "power to tax is the power to destroy." Today, that authority resides with the American public's elected representatives. So, too, does the power to ensure non-discriminatory access to airports and airspace.

Congress should not abdicate, relegate, delegate or outsource its responsibility in the areas of aviation taxes and fees. Nor should it abdicate or delegate its responsibility to ensure non-discriminatory access to airports and airspace.

In fact, the Congressional Research Service recently wrote that giving a non-profit, privatized air traffic control corporation the authority to set user fees and establish air traffic flow controls may well be unconstitutional.

Let's face it: It is difficult to see how a combination of self-interested industry representatives would really exercise taxation and access authority in a way that best serves the public, rather than their best commercial self-interest.

During this reauthorization debate, let's not get distracted from the hard work that needs to be done. Today, America has, by all empirical measures, the largest, safest, most efficient, most complex and most diverse air transportation system in the world.

But the business aviation community is not content with the status quo. No American should be. Being the best today is no guarantee you will be the best tomorrow. And having the world's strongest air traffic system is in the best interest of all Americans. Complacency is our enemy.

That is why business aviation has been an active and outspoken champion of NextGen. No industry segment has done more than business aviation to make NextGen a reality. We want and need the benefits of increased capacity, enhanced safety and a reduced environmental footprint. We are

investing in NextGen equipment and we are asking Congress to do the same.

We know challenges need to be addressed. There are NextGen programs that are delayed, operational benefits that are slow to be implemented and decommissioning of legacy equipment that has been deferred. We desperately need to streamline our certification and approval process. All of this increases funding pressures.

Let's get about the serious work of fixing these problems, and making NextGen a reality, so that all Americans—including those in small towns and rural communities—can continue to receive the benefit of their public airspace.

Congress does not need to turn over its power to tax to do that.
With regard to taxes, it is important to note that while no industry likes paying taxes, or wants to pay anymore taxes than necessary, the general aviation community has always said that the fuel tax mechanism is the perfect mechanism for our community to contribute funding for our nation's air transportation system.

The general aviation fuel taxes are easy to pay and difficult to avoid. They require users to pay before they fly, not after the fact. They are progressive in nature, and closely approximate one's use of the system. They create a constant incentive to invest in fuel-efficient technologies and fly fuel-efficient routes. Finally, they do not require a bureaucracy of agents, collectors and auditors to administer.

The authority over taxes and access to airspace and airports belongs to Congress, and it is an authority that should not be abdicated or delegated. Communities of all sizes in every corner of the country are depending on you to retain your oversight authority in the areas of taxes and access, to ensure that the public airspace benefits the public.

Mr. Chairman, in closing, I'd like to provide our basic guiding principles for FAA reauthorization, which we request the committee consider as it works to develop legislation. Those are as follows:

- **Make NextGen a reality**. NextGen is our plan to retain our world leadership position in air traffic management; the question is, how do we make it a reality? That question is central to the reauthorization process. Unfortunately, the challenges are significant – NextGen is not simply a matter of "flipping a switch," as some would have you

believe. Make no mistake about it: no one is content with the clarity, pace or cost of the transition to NextGen to date – we need to do better.

- **Keep Congressional control over taxes, fees and charges**. For the people who have to pay them, mandatory taxes, fees and charges are all the same. Proposals may be put forward that would effectively take authority to fund our aviation system and put it in the hands of nonelected officials. A dialogue about finding a new governance structure may be appropriate, but the composition and scope of its authority matters. Congress must retain authority over taxes, fees and charges. This is not a responsibility that can be transferred, delegated or outsourced.

- **No user fees**. As the members of this subcommittee know, the general aviation community, including business aviation, pays a fuel tax to fund its use of the aviation system. This mechanism is an unmatched proxy for system use, because the more often you fly, and the longer distances you fly, the larger your aircraft, and the more fuel you burn, the more taxes you pay. The fuel tax is also highly efficient: paying at the pump means full compliance, without a collection bureaucracy – a "SKY-R-S" – needed to administer fees or charges. The fuel tax also covers all of the air traffic control services, including those for flight safety, that are needed in a typical flight. We don't want to promote a disincentive for people to use safety services. Simply put, anything that could be done through a user fee, the fuel tax can do better. For all these reasons and more, Congress has repeatedly written to the current and previous Administrations in opposition to per-flight user fees, and should continue to oppose them.

- **Ensure predictable, affordable access to airspace and airports**. The inherent value of business aviation is the ability of companies to fly where they need to, when they need to. Things that impede our access to airports and airspace have the potential to do great harm. Business aviation must have continued access to our nation's airports and airspace. As we have learned in Australia and other parts of the world, this is not something that can be taken for granted.

- **Protect the privacy of those in flight**. The Automatic Dependent Surveillance–Broadcast (ADS-B) technology, a cornerstone of the FAA's satellite-based NextGen system, does not currently include needed protections for operators' privacy and security. While NBAA has long promoted the development of ADS-B, we have consistently

pointed out that, in transitioning to satellite-based navigation and surveillance, we must ensure that it makes accommodations for privacy.

When it comes to ADS-B, we continue to believe that people should not have to surrender their privacy and security just because they travel on a general aviation aircraft. This committee was integral in protecting these rights previously, and we respectfully request that these privacy protections be addressed in the pending 2015 FAA Reauthorization bill as well.

- **Protect our airport system**. Our national system of airports was created to provide communities with access to a safe and adequate public system. We must ensure that our system of airports meets national objectives, including economic growth, defense, emergency readiness, law enforcement, postal delivery and other priorities.

  Unfortunately, in certain regions of the country, attempts are being made to close important airports, even when federal investments and assistance have been provided to ensure these airports meet national economic and other priorities. We support giving the Secretary of Transportation sufficient discretion to allow an airport to remain open for purposes of protecting or advancing civil aviation interests of the United States, if standard conditions become unenforceable. Simply put, we must continue supporting facilities, at the federal level, as part of a single, national aviation-transportation system.

  We strongly believe that airports should be good neighbors and should work with communities to maintain a balance between the needs of aviation, the environment and the surrounding residences. However, over the years, attempts have been made to create new restrictions and impediments for aviation users through airport curfews and other local initiatives to restrict access to airports. We must be vigilant in stopping ongoing attempts from local interests to compromise the national nature of our aviation system.

- **Improve the certification and approval process**. The approval process can be cumbersome, unnecessarily taking up time and resources. The FAA should constantly look for ways to keep or improve safety, while adopting more efficient, effective business-like processes.

- **Ensure the safe introduction and integration of new aviation technologies**. NBAA would also like to take this opportunity to

commend the U.S. Department of Transportation (DOT) and FAA on their recent release of a notice of proposed rulemaking toward adopting a regulatory framework governing the commercial operation of small, unmanned aircraft systems (s-UAS) weighing less than 55 lbs.

The FAA has taken a good first step in releasing these initial guidelines to provide a much-needed regulatory structure for these operations. We urge the Committee to work closely with the DOT, FAA and the UAS industry as they work to integrate UAS into the national airspace system in a thoughtful, deliberative process focused on ensuring the safety and security of all aviation stakeholders.

- **Ensure continuity of government aviation services**. Aviation aircraft and parts cannot be produced, financed, bought or sold without the written approval of the federal government. When the FAA Registry Office was shuttered in the 2013 government shutdown, it significantly impacted much of America's general aviation industry, including thousands of businesses that use general aviation aircraft for parts delivery, customer visits, aircraft repairs, fuels sales, hanger construction and aircraft brokerage activities.

  We urge the Committee to include language in the pending FAA reauthorization legislation, which would ensure that the important aviation safety and security functions of the FAA Registry Office are protected from any future government shutdowns.

I look forward to responding to any questions the Committee may have. Thank you.

###